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OFFICE OF PETITIONS

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|----------------------------------|---|----------------------|
| In re Application of Yen et al. | : | |
| Application No. 09/889,901 | : | Decision on Petition |
| Filing Date: July 24, 2001 | : | |
| Attorney Docket No. 006357.00014 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed June 5, 2007, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed January 12, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on April 13, 2006. A Notice of Abandonment was mailed August 15, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner has submitted the required petition fee of \$1,500. Petitioner has submitted a reply to the final Office action in the form of a Request for Continued Examination and amendment. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

For the reasons above, the petition is granted and the application is revived.

Attorney Ernest Linek signed the petition. Attorney Linek was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Attorney Linek may not have been in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Attorney Linek that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.¹ In the event that such an inquiry has not been made, petitioner

¹ See *Changes to Patent Practice and Procedure*, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

must make such an inquiry. If such inquiry results in the discovery that a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

At the current time, the record fails to indicate Attorney Linek has power of attorney or authorization of agent to prosecute the above-identified application. If Attorney Linek wishes to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the address on the petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Technology Center Art Unit 1723 will be informed of the instant decision and the RCE and other papers filed June 5, 2007, will be considered by the examiner in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



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